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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/051,338	01/18/2002	Lou Chauvin	83304CF-P	9961

7590 10/14/2004

Milton S. Sales
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

EXAMINER

POND, ROBERT M

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 10/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/051,338

Applicant(s)

CHAUVIN ET AL.

Examiner

Robert M. Pond

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). For examination purposes, misnumbered Claims 14-20 have been renumbered 13-19. Appropriate corrections are required. Claim 19 objected to because of the following informalities: please check grammatical error- "will implementing." Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

4. Claims 1-9 are rejected under 35 USC 101 because the claimed invention is directed to non-statutory subject matter.

The claims are directed to a process that does nothing more than manipulate an abstract idea. Mere recitation in the preamble (i.e., intended use) or mere implication of employing a machine or article of manufacture to perform some or all of the recited steps does not confer statutory subject matter to an otherwise abstract idea. There is no practical application in the technological arts to support the core invention. For subject matter to be statutory, the claimed process must be limited to a practical application of the abstract idea or mathematical algorithm in the technological arts. See *In re Alappat* 33 F.3d at 1543, 31 USPQ2d at 1556-57 (quoting *Diamond V. Diehr*, 450 U.S. at 192, 209 USPQ at 10). A claim is limited to a practical application when the method, as claimed, produces a concrete, tangible and useful result: i.e. the method recites a step or act of producing something that is concrete, tangible and useful. See *AT&T v. Excel Communications Inc.*, 172 F.3d at 1358, 50 USPQ2d at 1452.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-19 are rejected under 35 USC 102(b) as being anticipated by Kodak (a collection of prior art cited in PTO-892, Items: U-V).

Kodak teaches all the limitations of Claims 1-20. For example, Kodak discloses Kodak Picture Center, a system and method for ordering digital photo services over a communication network among a plurality of photo service providers from a plurality of order terminals, each of the order terminals being associated with one of a plurality of business entities. Kodak discloses Kodak Picture Center Online launched on CVS.com the Internet arm of CVS/Pharmacy with more than 4,100 stores. Kodak teaches offering CVS consumers a total photography solution, offering both traditional prints and pictures uploaded to the Internet, and CVS consumers sharing and enhancing their pictures online. Kodak teaches co-branding the CVS-Kodak photo web site to consumers online at CVS.com and at 4,100 CVS/Pharmacy stores (V: see at least title and page 1).

Kodak further discloses:

- Maintaining information: photo-server's e-commerce processing engine and imaging server controls Kodak Picture Center Online (U: see page 2). Inherent in the system and method of a centralized business-to-business commerce server is maintenance of entity relationship information and

directory services. Inherent in the system of a centralized business-to-business commerce server is computer software embodied in computer-readable memory having executable instructions.

- Providing an offering at one or more the order terminals: at least 4,100 kiosks at a plurality of service providers (U: see page 2).
- Provides a subset of services: subset of CVS services; having film digitized and uploaded directly to Picture Center Online (by checking a box on their photo-finishing envelope at CVS stores). (U: see page 2); uploading digital files from digital camera and personal computers (U: see page 2).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

- Symons, Allene; "Digital Services Complement Traditional Photography," Drug Store News, 26 June 2000, v22n9pg190, 3pgs, Proquest #56102976; teaches Kodak Picture Maker, Kodak Picture Center kiosks, and competitors to Kodak providing digital services.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mr. Robert M. Pond** whose telephone number is 703-605-4253. The examiner can normally be reached Monday-Friday, 8:30AM-5:30PM EDT.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Ms. Wynn Coggins** can be reached on 703-308-1344.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the **Receptionist** whose telephone number is **703-308-1113**.

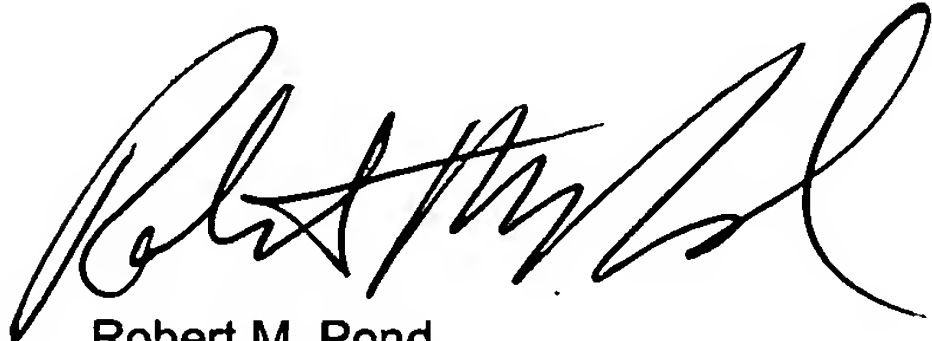
Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks
Washington D.C. 20231***

or faxed to:

703-872-9306 (Official communications; including After Final communications labeled "Box AF")

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA, 7th floor receptionist.

A handwritten signature in black ink, appearing to read 'Robert M. Pond', written in a cursive style.

Robert M. Pond
Patent Examiner
October 1, 2004